

Sellers of electricity that do not deliver the electricity to their customers, do not qualify as delivering suppliers under the Electricity Excise Tax Law. See 35 ILCS 640/2-3. (This is a GIL).

March 26, 1999

Dear Xxxxx:

This letter is in response to your letter dated March 11, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I would like to request clarification on the issue of energy marketers and the Electricity Excise Tax. We have a subsidiary that is an energy marketer. They do not have any distribution assets. We sell electricity to them and they bill the customer, but we are the delivering supplier of the electricity. We include the tax received from the energy marketer in our Electricity Excise Tax Return. Recently, the energy marketer has received a Notice of Non-Filing for the Electricity Excise Tax from the Department of Revenue and registration forms. It was my understanding that the tax was to be filed and remitted by the delivering supplier, in which case the energy marketer would not be required to register or file. Could you please address this issue?

The Electricity Excise Tax Law became effective August 1, 1998. See 35 ILCS 640/1 et seq. This tax is imposed upon the privilege of using in this State electricity purchased for use or consumption and not for resale, other than by municipal corporations owning and operating a local transportation system for public service. The incidence of this tax is on the consumers of electricity.

Except for customers that elect to become self-assessing purchasers, the tax is collected from the customers by their delivering suppliers who maintain a place of business in this State. See 35 ILCS 640/2-7. The term "delivering supplier" is defined as "any person engaged in the business of delivering electricity to persons for use or consumption and not for resale and who, in any case where more than one person participates in the delivery of electricity to a specific purchaser, is the last of the suppliers engaged in delivering the electricity prior to its receipt by the purchaser." 35 ILCS 640/2-3.

Sellers of electricity do not qualify as delivering suppliers under the Electricity Excise Tax Law when other entities deliver the electricity to the sellers' customers in this State. In those situations, the sellers are not

required to register as delivering suppliers and are not required to collect Electricity Excise Tax or file returns under the Electricity Excise Tax Law. However, the entities that are delivering the electricity to the sellers' customers in this State are required to register as delivering suppliers, collect Electricity Excise Tax, file returns, and remit the tax to the Illinois Department of Revenue.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton  
Associate Counsel

TDC:msk  
Enc.